

**LEGAL
REQUIREMENTS**

45 CFR 302.31
45 CFR 302.50
45 CFR 303.4
MCLA 552.1 - 552.46
MCLA 552.451 - 552.459
MCLA 722.1 - 722.6

Federal regulations require that the IV-D Agency secure support for children from legally liable persons. Child support obligations must be formally established using appropriate State laws and legal processes. Obligations must be established in IV-D cases for children for whom an obligation has not previously been established by court order or other legal process established under State law. Spousal support obligations may not be established under the IV-D program.

The Family Support Act and Status of Minors Act are the most commonly used statutes to establish child support obligations in IV-D cases when the child and absent legal parent reside in Michigan. Complaints cannot, however, be filed under the Family Support Act when divorce or separate maintenance proceedings are pending. Both the Family Support and Status of Minors Acts provide for the establishment of obligations on behalf of minor children and certain children who have reached age 18. An obligation can be established for a child up to the age of 19 years and 6 months when the child attends high school on a regular, full-time basis, is expected to graduate and lives with the payee of support or in an institution. Obligations may also be established for children beyond the age 18 by agreement of the parties.

In addition, divorce laws permit the prosecuting attorney (or Friend of the Court in counties having populations of at least 500,000) to intervene in divorce actions to protect the best interests of the child or the public.

AGENCY POLICY

This item provides policies concerning obligation establishment in cases in which the child and the absent legal parent reside in Michigan and paternity is not at issue.

The support specialist must evaluate the need for services to establish a child support obligation at application or referral for IV-D services and when necessary due to changes in circumstances. Establishment of an obligation is necessary in IV-D cases in which an obligation has not previously been established by court order against an absent legal parent for his/her child(ren) and when otherwise necessary to secure support for the child. Action is to be taken on behalf of children who are minors and on behalf of children who are between the ages of 18 and 19 years, 6 months when they attend high school full-time and live with a custodial parent or guardian. Action to establish a child support obligation

must be initiated in those cases unless precluded by policies in Items 150 and 160 concerning good cause and client cooperation.

Action to establish an obligation may be deferred in a IV-D case when the absent parent has no present ability to pay support because he/she is incarcerated, institutionalized or incapacitated. The date and any anticipated change in circumstances in cases in which action to establish an obligation is deferred or suspended must be recorded in a reminder file. The potential for support action must be reevaluated at that future date.

When establishment of an obligation is necessary and the location of the absent parent is known, the support specialist must initiate a Court Action Referral to the prosecuting attorney. The referral is generated using the Data Processing Sub-System (DPSS) or the Child Support Enforcement System (CSES).

The following guidelines are provided to assist support specialists in initiating appropriate referrals for obligation establishment in intrastate cases in which paternity is not an issue. The guidelines identify referred types codes which are used in DPSS to identify the action requested. Policy concerning paternity establishment, including cases involving socially illegitimate children, is contained in Item 210. Refer to Item 220 for interstate support enforcement policy.

- In cases in which divorce action has been initiated in Michigan but support has not been ordered for the child, a referral for divorce intervention (referral type DM) is appropriate.
- In cases in which a Michigan divorce is final and support was not ordered for the child, a referral for either modification of the divorce (referral type DM) or for action under the Status of Minors Act (type DZ) is appropriate.
- When divorce is not a factor and there is no enforceable support obligation against the absent parent for the child, either a Family Support (type DS) or Status of Minors (type DZ) referral is appropriate.
- In any other intrastate, non-paternity case lacking an enforceable child support obligation or when necessary to redirect support payments, a referral for action under the Status of Minors Act (type DZ) is appropriate. This can include a case in which an out-of-state order exists and the parties now live in Michigan.

Upon receipt of a referral, the prosecutor is expected to evaluate referral information and, notwithstanding the referral type, take action to establish a child support obligation using the most appropriate legal process available.